Exhibit B

July 10, 2020

Via Email: REDACTED

Canon Pence
General Counsel
Epic Games, Inc.
620 Crossroads Blvd
Cary, NC 27518

Dear Mr. Pence:

I am counsel in the Apple Legal Department and I am writing in response to Mr. Sweeney's email to Tim Cook, Phil Schiller, Craig Federighi, and Matt Fischer on June 30, 2020. The email was disappointing and requires a formal response.

The App Store is not simply a marketplace -- it is part of a larger bundle of tools, technologies and services that Apple makes available to developers to develop and create great applications for iPhone, iPad and other Apple products. We know Epic knows this. Epic has been a major beneficiary of this investment and support. Epic has made great use of Apple-provided tools, such as TestFlight, VOIP, Stickers, iCloud document storage, ARKit, Messages Extension, ReplayKit, and Push Notifications. To highlight one example, for years now, Epic has used Apple's groundbreaking graphics technology, Metal. When Apple launched Metal for Mac at WWDC in 2015, Mr. Sweeney's colleague Billy Bramer stood on stage and explained how Metal "revolutionized graphic design" and "enable[d] developers like us to create richer 3D worlds." *Apple – WWDC 2015*, Youtube (June 15, 2015), https://www.youtube.com/watch?v=_p8AsQhaVKI. Epic, like countless developers, continues to use Metal to make its games sharper, faster, and more responsive. Apple doesn't charge separately for the use of Metal or any of the other tools that Epic has used to develop great games on iOS.

Not only has Apple supplied tools and technologies for Epic to build its apps, but it also provided a marketplace—the App Store—to help make them a success. Because of the App Store, Epic has been able to get Fortnite and other apps into

the hands of millions instantly and at no cost, as Apple charges nothing upfront to distribute apps that are free to download. This exposure has earned Epic hundreds of millions of dollars from sales of in-app content, and brought with it lucrative brand partnerships and paid product placement. *See Fortnite Emerges as a Social Media Platform for Gen Z, AdAge* (June 10, 2019), https://adage.com/article/digital/fortnite-emerges-social-media-platform-gen-z/2176301. Of course, Epic could not have achieved this success without great apps, but it nonetheless underscores the value Apple brings to developers like Epic.

Still, Epic has many ways to reach consumers, including through Android stores, PC-based platforms, consoles (Xbox, Nintendo, Play Station) and its very own app marketplace. Public reports indicate that Fortnite alone "generated $1.8 billion in revenue in 2019," *Fortnite Creator Epic Games Raising $750M at $17B Valuation: Report*, The Street (June 15, 2020), https://www.thestreet.com/investing/fortnite-creator-epic-games-raising-750m-at-17b-valuation, or over seven times the $245 million yielded by App Store receipts for all Epic apps. Epic made its own decision to utilize the App Store as another one of its channels and can hardly be surprised that this entails acceptance of a license agreement and related policies since Epic's own developers must do the same. *See* Epic Online Services Developer Agreement https://dev.epicgames.com/en-US/services/terms/agreements ("If you do not or cannot agree to the terms of this Agreement, do not download or use the SDK or access any Services.").

Apple has hundreds of thousands of developers distributing apps on the App Store, and Apple is proud that it offers them all, from the student in her living room to some of the largest companies in the world, the same terms and opportunities.

That brings us to the demands in Mr. Sweeney's email. Epic requests the right to offer a "competing Epic Games Store app" through the App Store that would seemingly allow iOS device users to install apps from Epic directly. And Epic wants to offer "competing payment processing options" in Fortnite and other Epic apps instead of using Apple's in-app purchase (IAP) system. As you know, Apple has never allowed this. Not when we launched the App Store in 2008. Not now. We understand this might be in Epic's financial interests, but Apple

strongly believes these rules are vital to the health of the Apple platform and carry enormous benefits for both consumers and developers. The guiding principle of the App Store is to provide a safe, secure and reliable experience for users and a great opportunity for all developers to be successful but, to be clear, when it comes to striking the balance, Apple errs on the side of the consumer.

Epic Store Within The App Store. As for the first request, Apple designed the App Store to be a secure and trusted place for consumers to discover and download software. Central to this is Apple's requirement that every iOS app undergo rigorous, human-assisted review. Apple invests significant resources to ensure that apps meet high standards for privacy, security, content, and quality; we have reviewers located on three continents, representing 81 languages, and reviewing on average 100,000 submissions per week.

That investment has paid off not just for Apple, but also for app developers large and small, including Epic. Because of Apple's rules and efforts, iOS and the App Store are widely recognized as providing the most secure consumer technology on the planet. And as a result, consumers can download and pay for an app and in-app content without worrying that it might break their device, steal their information, or rip them off. This level of security benefits developers by providing them with an active and engaged marketplace for their apps.

One way Apple helps maintain the confidence of its users is by not approving apps that create "an interface for displaying third-party apps, extensions, or plug-ins similar to the App Store or as a general-interest collection." App Store Review Guideline § 3.2.2. Absent this guideline, Apple would have no reliable way of delivering on its commitment to consumers that *every* app available via the App Store meets Apple's exacting standards for security, privacy, and content. Consumers rightly rely on that commitment in buying Apple devices and in purchasing from the App Store. They will quite properly hold Apple to account for any shortfall in performance. The health of Apple's ecosystem and the strength of its reputation as a maker of high-quality hardware accordingly depend upon rules like Guideline § 3.2.2.

Although Mr. Sweeney represented that, if Epic offered its own iOS app store, Epic would "protect device security, consumer privacy, and a high-quality user

experience," we cannot be confident that Epic or any developer would uphold the same rigorous standards of privacy, security, and content as Apple. Indeed, since Apple treats all developers according to the same terms, Epic is essentially asking Apple to outsource the safety and security of Apple's users to hundreds of thousands of iOS developers. Even if such a model were feasible (and it is not), we are simply unwilling to risk our users' trust in such a way. Incorporating third party app stores into iOS would undermine Apple's carefully constructed privacy and security safeguards, and seriously degrade the consumer experience and put Apple's reputation and business at risk.

Circumventing IAP. Epic also requests to offer payment processing options within Epic's apps other than via IAP. IAP is the App Store's centralized payment system. It lets users purchase digital goods and services within apps without the inconvenience and security risks of registering their payment information with each developer. As you note, Apple's App Review Guidelines require that apps use IAP to unlock additional features and functionalities. *See* App Store Review Guideline § 3.1.1.

Again, this rule is central to the App Store's business model and successes. IAP supports the seamless consumer experience and is the means by which Apple gets paid for the valuable services and consumer base that it provides. To take advantage of Apple's App Store, the bargain is simple: if you charge for software purchased through the App Store, Apple takes a percentage of the charge as commission. This business model has remained unchanged since the App Store launched.

Mr. Sweeney does not take issue with that model in his email—perhaps because Epic takes full advantage of it. Apple takes no cut from Epic's in-app advertising, nor from sales of items, like skins and currency, that iOS app users obtain outside of the App Store. And, as already discussed, Apple charges nothing for enabling millions of iOS users to play Fortnite for free. Without IAP, however, Apple would have no practical or reliable way of collecting its commission on in-app digital sales. Indeed, the IAP requirement applies equally for the very same reason to the Mac App Store, which you regard as "open and competitive."

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Mr. Sweeney recently stated that "[i]t's up to the creator of a thing to decide whether and how to sell their creation." Tim Sweeney (@TimSweeneyEpic), Twitter (June 16, 2020, 11:53 PM), https://twitter.com/TimSweeneyEpic/status/1273101468875329537. We agree. It seems, however, that Epic wishes to make an exception for Apple and dictate the way that Apple designs *its* products, uses *its* property and serves *its* customers. Indeed, it appears that Mr. Sweeney wants to transform Apple's iOS devices and ecosystem into "an open platform… like the first Apple computers, where users had the freedom to write or install any software they wished." https://twitter.com/TimSweeneyEpic/status/1273090414476738567.

In the first place, this ignores the fundamental reality that the iPhone operates in an entirely different environment than a laptop or desktop computer and meets wholly different user expectations. As Steve Jobs explained in 2007, "[y]ou don't want your phone to be like a PC. The last thing you want is to have loaded three apps on your phone and then you go to make a call and it doesn't work anymore. These are more like iPods than they are like computers." Steve Jobs Walks the Tightrope Again, N.Y. Times (Jan. 12, 2007), https://www.nytimes.com/2007/01/12/technology/12apple.html.

The App Store is not a public utility. Epic appears to want a rent-free store within the trusted App Store that Apple has built. Epic wants "equal access" to Apple's operating system and "seamless" interaction between your store and iOS, without recognizing that the seamlessness of the Apple experience is built on Apple's ingenuity, innovation, and investment. Epic wants access to all of the Apple-provided tools like Metal, ARKit and other technologies and features. But you don't want to pay. In fact you want to take those technologies and then charge others for access. Apple has invested billions of dollars to develop technologies and features that developers like Epic can use to make great apps as well as a safe and secure place for users to download these apps. Apple designs its products and services to make developers successful through the use of custom chips, cameras, operating system features, APIs, libraries, compilers, development tools, testing, interface libraries, simulators, security features, developer services, cloud

services, and payment systems. These innovations are properly protected by intellectual property laws and Epic has no right to use them without a license from Apple. As a signatory to the Apple Developer Agreement and the Apple Developer Program License Agreement, Epic has acknowledged these IP rights (just as Epic's developers do the same with respect to Epic's intellectual property). *See* Apple Developer Program License Agreement § 2.5.

Surely Epic must understand that Apple is entitled to a return on its investment and the use of its property. After all, Epic takes great pains to protect *its own* investments and intellectual property. Epic rightly demands royalties from games built using its development software. *See* Unreal Engine End User Agreement § 5, https://www.unrealengine.com/en-US/eula/publishing. And it tightly controls how its games, designs, and content may be used, because, in its own words: "we spend a lot of time, thought, and money creating our intellectual property and need to protect it." Fan Content Policy, https://www.epicgames.com/site/en-US/fan-art-policy. Plus, Mr. Sweeney recently suggested that it's reasonable for other industry players, such as console manufacturers, to charge for distributing software. Tim Sweeney (@TimSweeneyEpic), Twitter (June 17, 2020, 11:29 AM), https://twitter.com/TimSweeneyEpic/status/1273276548569841667. And Epic's major investor, China's Tencent, also charges developers to take advantage of its platform. *See Tencent opens up WeChat Mini-Games Platform to External Devs*, Pocket Gamer (Apr. 11, 2018), https://www.pocketgamer.biz/asia/news/67901/tencent-opens-up-wechat-mini-games-platform-to-external-devs/.

Yet somehow, you believe Apple has no right to do the same, and want all the benefits Apple and the App Store provide without having to pay a penny. Apple cannot bow to that unreasonable demand. We must therefore respectfully decline to make the changes you request.

Sincerely,

Douglas G. Vetter
Vice President & Associate General Counsel